

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
-v-	:	15-CR-473 (JMF)
	:	
MARCOS ANTONIO MENDEZ FELIZ,	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
Defendant.	:	
	:	
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JESSE M. FURMAN, United States District Judge:

On February 1, 2024, Defendant filed three motions, pursuant to 18 U.S.C. § 3582(c)(2), for a reduction of his sentence pursuant to Amendment 821 to the United States Sentencing Guidelines, which went into effect on November 1, 2023, and applies retroactively. *See* ECF Nos. 64-66. A reduction of sentence is not authorized, however, if the amendment at issue “does not have the effect of lowering the defendant’s applicable guideline range.” U.S.S.G. § 1.10(a)(2); *see* 18 U.S.C. § 3582(c)(2). That is the case here.

Contrary to Defendant’s suggestions in his motions, the Court found at sentencing that his adjusted offense level was 40 and he had five criminal history points, putting him, at the time, in Criminal History Category III. *See* ECF No. 58, at 6. Accordingly, he does not qualify for the two-point offense level adjustment under U.S.S.G. § 4C1.1, which applies only to “zero point offenders” — and furthermore does not apply where, as here, the defendant used violence. *See id.* § 4C1.1(a)(3). And while, under Amendment 821, Defendant would not receive status points, placing him in Criminal History Category II, his Guidelines sentence would be the same: 240 months’ imprisonment. Accordingly, Defendants’ motion must be and is DENIED.


This Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Memorandum Opinion and Order would not be taken in good faith, and *in forma pauperis* status is thus denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to terminate ECF Nos. 64-66 and to mail a copy of this Memorandum Opinion and Order to:

Marcos Antonio Mendez Feliz
BOP No. 87071-054
FCI Fort Dix
Federal Correctional Institution
P.O. BOX 2000
Joint Base MDL, NJ 08640

SO ORDERED.

Dated: February 2, 2024
New York, New York



JESSE M. FURMAN
United States District Judge